O/Cooperative Societies/52

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File No. 63/52

Legal Department

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Subject:—

Opinion on the

Bombay Cooperative Societies

Act

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Legal Department File No.O. Cooperative Societies/52.

Sr.No.	R.I./O.No.	Subject.	Pages.
1	G - 243 5-6-52.	Opinion on the Bombay Co-operative Society Act, Recovery of the price of foodgrains from the Chairman and Secretary of the Co-operative Society. Question re. Bank's claim for priority over Govt.	1-4

SSD.
27.7.56. 5c.

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Under the Bond the Chairmen and Secretary of the Co-operative Society have agree to the recovery of the price of the foodgrains supplied to them being effected as an arrear of the land revenue. That bond is in respect of only Rs. 20003-4-0 but presumably there are similar bonds for the whole amount. Besides sub-section (1) of section 65 of the Bombay Co-operative Societies Act, 1925 provides that all sums due from a society to Government may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue. Sub-section (2) of section 65 further provides that sums due from a society to Government and recoverable under sub-section (1) may be recovered firstly, from the property of the society, secondly, in the case of a society of which the liability of the members is limited, from the members or past members subject to the limit of their liability and thirdly, in the case of other societies, from the members or past members. From the provisions of section 24(1) and 24A (iv) it is evident that Government's claim in respect of money recoverable as land revenue has priority over all other claims. The Assistant Registrar of Co-operative Societies has informed the Collector of Ahmedabad that the properties of the Secretary and Manager have been attched and the dispute regarding the misappropriated amount has been referred to an arbitrator and on the receipt of whose award steps would be taken to sell their properties by auction and therefore the recovery of Government dues will be possible only after the receipt of these awards. Government may keep the claim with the Registrar pending the receipt of awards. But if the society has any other property Government may proceed to recover its dues from that property as an arrear of land revenue.

As regards the claim of the Central Co-operative Bank Ahmedabad for the value of stock's of sugar and cottonseed belonging to the Rethal Co-operative Society, which was

handed over to the new management of the Rural Distribution Centre, it appears that the adjustment of that amount made by the Mahalkari saned towards the recovery of Government dues is not quite legal. It is true that Government dues have a prior claim on the property of the society but such dues should be recovered as an arrear of land revenue. It may be that distribution of sugar and cottonseed was made on behalf of Government through the Rural Distribution Centre and therefore the stock was transferred for such distribution through the new management. But the appropriation of the price of this stock without any proceedin s appears to be irregular. It may be regularized by following the proper procedure. But in any case the Central Co-operative Bank is not entitled to the moneys only because the Bank financed the purchase of those commodities by the Society as Government has a prior claim for its dues on the property of the Society and presumably the property in the stock was of the Society and not of the Bank.

ID/- .....

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Remembrancer of Legal Affairs.

U.R. to D.D., No. G- 243, dated the 5th June 1952.

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